

AMENDED IN ASSEMBLY AUGUST 26, 2014

AMENDED IN ASSEMBLY AUGUST 22, 2014

AMENDED IN ASSEMBLY AUGUST 19, 2014

AMENDED IN ASSEMBLY JUNE 11, 2014

AMENDED IN SENATE APRIL 24, 2014

SENATE BILL

No. 1244

Introduced by Senator Lieu

(Principal coauthor: Assembly Member Bonilla)

February 20, 2014

An act to amend Sections 8505, 8505.1, 8505.2, 8505.5, 8505.10, 8505.12, 8505.14, 8505.17, 8507.1, 8514, 8518, 8520, 8528, 8551.5, 8560, 8562, 8564, 8564.6, 8565, 8566, 8567, 8590, 8593.1, 8612, 8613, 8617, 8622, 8643, 8647, 8651, 8660, 8673, and 8674 of, to add Sections 8504.1 and 8672.1 to, and to repeal Sections 8505.6, 8565.6, and 8590.1 of, the Business and Professions Code, relating to the Structural Pest Control Board.

LEGISLATIVE COUNSEL'S DIGEST

SB 1244, as amended, Lieu. Structural Pest Control Board.

Existing law, until January 1, 2015, establishes the Structural Pest Control Board, within the Department of Consumer Affairs, and authorizes the Director of Consumer Affairs to appoint a registrar to be the executive officer of the board. The board is required to license and regulate structural pest control operators, as specified.

This bill would extend the operation of those provisions until January 1, 2019.

Existing law provides, in pertinent part, that structural pest control includes, with respect to household pests and wood destroying pests or organisms, or other pests which may invade households or other structures, the engaging in, offering to engage in, advertising for, soliciting, or the performance of, among other things, the identification of infestations, or the use of insecticides, pesticides, rodenticides, fumigants, or allied chemicals or substances for the purpose of eliminating, exterminating, controlling, or preventing infestations or infections of those pests, or organisms. Under existing law, an applicator's license expires 3 years from the date the license is issued.

This bill would define the term "pesticide" to include any spray adjuvant and any substance, or mixture of substances, which is intended to be used for preventing, destroying, repelling, or mitigating any pest or organism, and would make conforming changes pertaining to that definition. The bill would delete obsolete provisions pertaining to the definition of fumigants and fumigation procedures, and would conform notice provisions relating to fumigation to other provisions of law. The bill would authorize, in specified circumstances, waiving the use of warning agents in conjunction with fumigants. The bill would provide that an applicator's license instead would expire on June 30 of the 3rd year after issuance.

Existing law requires registered structural pest control companies to submit monthly reports to the county agricultural commissioner reporting the name and registration number of each pesticide, the amount used, and the number of applications made. Existing law requires the report to have a pesticide stamp issued by the board, as specified.

This bill would authorize the use of pesticide stamp numbers in addition to pesticide stamps for those purposes. The bill would delete the requirement that the monthly reports specify the number of applications made for a pesticide. The bill would require structural pest control licensees to maintain a copy of the monthly report for 3 years after submission.

Existing law prescribes various fees for licensing, registration, examinations, and other purposes pertaining to structural pest control matters, and authorizes a fee of \$2 for a pesticide use stamp in connection with a monthly pesticide report. Existing law provides that those fees may be deposited in the Structural Pest Control Research Fund, or with a bank or other depository, as specified.

This bill would prescribe a \$2 fee for a pesticide use stamp number. The bill would delete provisions for deposit of the stamp and stamp

number fees with a bank or other depository, and would make additional conforming changes.

Existing law authorizes suspension and fines to be imposed on a registered structural pest control company for specified violations.

This bill would provide that the time for an action for a suspension or fine against a structural pest control licensee or registered company would be 2 years from the date of the violation, provided however, that when an agricultural commissioner submits a completed investigation to the registrar of the Structural Pest Control Board, or the Attorney General, the action would be required to be brought within one year of the commissioner's submission.

Existing law establishes a disciplinary review committee, in connection with disciplinary procedures against structural pest control licensees and registered companies, which requires as a member of the committee, a person representing the Secretary of Food and Agriculture.

This bill would instead require as a member of the committee, a person who represents the Director of Pesticide Regulation.

The bill would make additional conforming and technical, nonsubstantive changes.

The bill would incorporate changes to Section 8674 of the Business and Professions Code proposed by both this bill and AB 1685 which would become operative only if both bills are enacted and become effective on or before January 1, 2015, and this bill is enacted last.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 8504.1 is added to the Business and
- 2 Professions Code, to read:
- 3 8504.1. "Pesticide" includes any of the following:
- 4 (a) Any spray adjuvant.
- 5 (b) Any substance, or mixture of substances, which is intended
- 6 to be used for preventing, destroying, repelling, or mitigating any
- 7 pest or organism.
- 8 SEC. 2. Section 8505 of the Business and Professions Code is
- 9 amended to read:
- 10 8505. (a) "Structural pest control" and "pest control" as used
- 11 in this chapter are synonymous. Except as provided in Section
- 12 8555 and elsewhere in this chapter, it is, with respect to household

1 pests and wood destroying pests or organisms, or other pests that
2 may invade households or other structures, including railroad cars,
3 ships, docks, trucks, airplanes, or the contents thereof, the engaging
4 in, offering to engage in, advertising for, soliciting, or the
5 performance of, any of the following:

6 (1) Identification of infestations or infections.

7 (2) The making of an inspection or inspections for the purpose
8 of identifying or attempting to identify infestations or infections
9 of household or other structures by those pests or organisms.

10 (3) The making of inspection reports, recommendations,
11 estimates, and bids, whether oral or written, with respect to those
12 infestations or infections.

13 (4) The making of contracts, or the submitting of bids for, or
14 the performance of any work including the making of structural
15 repairs or replacements, or the use of pesticides, or mechanical
16 devices for the purpose of eliminating, exterminating, controlling
17 or preventing infestations or infections of those pests, or organisms.

18 (b) “Household pests” are defined for the purpose of this chapter
19 as those pests other than wood destroying pests or organisms,
20 which invade households and other structures, including, but not
21 limited to, rodents, vermin, and insects.

22 SEC. 3. Section 8505.1 of the Business and Professions Code
23 is amended to read:

24 8505.1. (a) Except as provided in subdivisions (b) and (c), for
25 the purpose of this act, “fumigation” shall be defined as the use
26 within an enclosed space for the destruction of plant or animal life,
27 a substance having a vapor pressure greater than 5 millimeters of
28 mercury at 25 degrees centigrade when the substance is labeled
29 for those purposes.

30 The following is a list of lethal fumigants:

31 (1) Methyl bromide.

32 (2) Sulfuryl fluoride.

33 (3) Aluminum phosphide.

34 The board may adopt, and may as necessary amend, by
35 regulation, a list of fumigants.

36 (b) For the purpose of this act, “warning agent” is any agent
37 used in combination with any fumigant that lacks warning
38 properties.

39 The following is a warning agent:

40 Chloropicrin.

1 The board may adopt, and may as necessary amend, by
2 regulation, a list of warning agents.

3 (c) For the purpose of this act “simple asphyxiants” shall not
4 be deemed to be fumigants.

5 The following is a list of simple asphyxiants:

6 (1) Liquid nitrogen.

7 (2) Carbon dioxide.

8 The board may adopt, and may as necessary amend, by
9 regulation, a list of simple asphyxiants.

10 SEC. 4. Section 8505.2 of the Business and Professions Code
11 is amended to read:

12 8505.2. Fumigation shall be performed only under the direct
13 and personal supervision of an individual who is licensed by the
14 board as an operator or field representative in Branch 1 as set forth
15 in Section 8560.

16 SEC. 5. Section 8505.5 of the Business and Professions Code
17 is amended to read:

18 8505.5. (a) Notice of the date and place of fumigation, and
19 chemicals to be used, shall be given by the fumigator to the fire
20 department serving the area in which fumigation is to be performed
21 not less than two hours prior to the time fumigation begins. The
22 fire department shall not charge any fees for any service related
23 to structural pest control activities except for the costs of an
24 emergency response necessitated by illegal or negligent actions.

25 (b) Notice of each fumigation to be performed shall be given
26 to the commissioner in the county in which the job is to be
27 performed. The notice, which may be mailed or given by telephone,
28 at the option of the commissioner, shall be given at least 24 hours
29 prior to the time fumigation begins, unless the commissioner
30 determines that less time is sufficient. A fee shall not be assessed
31 for processing this notice.

32 SEC. 6. Section 8505.6 of the Business and Professions Code
33 is repealed.

34 SEC. 7. Section 8505.10 of the Business and Professions Code
35 is amended to read:

36 8505.10. Warning signs shall be printed in red on white
37 background and shall contain the following statement in letters
38 not less than two inches in height: “DANGER—FUMIGATION.”
39 They shall also depict a skull and crossbones not less than one
40 inch in height and shall state in letters not less than one-half inch

1 in height the name of the fumigant. These signs shall also include
2 in legible ink of any color, the date and time fumigant was injected,
3 and the name, address, and telephone number of the registered
4 company performing the fumigation. Warning signs placed under
5 a tarpaulin shall not be required to state the time the fumigant was
6 injected.

7 SEC. 8. Section 8505.12 of the Business and Professions Code
8 is amended to read:

9 8505.12. A registered company performing fumigation shall
10 use an adequate warning agent with all fumigants which lack those
11 properties. There may be circumstances in which the use of
12 chloropicrin is not possible due to its unknown effects on sensitive
13 items, including, but not limited to, artifacts in museums or in
14 police evidence storage. In these circumstances, waiving the use
15 of chloropicrin shall be approved by the state regulatory authority
16 and documented in advance and shall include alternative safety
17 precautions which address initial clearance of the site to be
18 fumigated, potential movement of the fumigant to unattended
19 areas, and continued site security. When conditions involving
20 abnormal hazards exist, the licensee exercising direct and personal
21 supervision shall take those safety precautions in addition to those
22 prescribed by this chapter as are reasonably necessary to protect
23 the public health and safety.

24 SEC. 9. Section 8505.14 of the Business and Professions Code
25 is amended to read:

26 8505.14. "Fumigator" means any individual licensed by the
27 board as a structural pest control operator or as a structural pest
28 control field representative in Branch 1 as set forth in Section 8560.

29 SEC. 10. Section 8505.17 of the Business and Professions
30 Code is amended to read:

31 8505.17. (a) There is hereby continued in existence in the State
32 Treasury a special fund to be known as the Structural Pest Control
33 Education and Enforcement Fund. Funds derived from the pesticide
34 use report filing fee provided for in Section 8674 and all proceeds
35 from civil penalties collected by the board pursuant to Section
36 8617 shall be deposited in the Education and Enforcement Account
37 which is hereby created in the fund. The account shall be used by
38 the board (1) for the purposes of training as provided in Section
39 8616, (2) for reimbursement to the Director of Pesticide Regulation
40 for work performed as the agent of the board pursuant to Sections

1 8616, 8616.4, and 8617 and Section 15202 of the Food and
2 Agricultural Code and for cases referred to the board pursuant to
3 subdivision (b) of Section 8616.5, and (3) for reasonable expenses
4 incurred by the Disciplinary Review Committee. There is no
5 reimbursement from this fund for inspections and routine
6 investigations.

7 (b) The board may withhold funds from its agent if it is not
8 satisfied that its agent has corrected the problems which resulted
9 in a suspension as provided in Section 8616.6. The authority to
10 withhold funds shall be limited only to the withholding of an
11 amount otherwise due the agent for reimbursable activities
12 performed in the county or counties for which a notice has been
13 filed pursuant to Section 8616.6.

14 (c) Registered structural pest control companies shall prepare
15 and submit to the county agricultural commissioner a monthly
16 report of all pesticides used in that county. The report shall be on
17 a form approved by the Director of Pesticide Regulation and shall
18 contain the name and registration number of each pesticide and
19 the amount used. The report shall be submitted to the commissioner
20 by the 10th day of the month following the month of application
21 and a copy shall be maintained by the licensee for a period of three
22 years after the report submission date. Each pesticide use report
23 or combination of use reports representing a registered structural
24 pest control company's total county pesticide use for the month
25 shall require a pesticide use stamp or stamp number issued by the
26 board in the denomination fixed by the board in accordance with
27 Section 8674 as the pesticide use report filing fee. The board shall
28 provide for the sale of these stamps and stamp numbers and for
29 the refund of moneys paid for stamps and stamp numbers which
30 are returned to it unused. When a registered structural pest control
31 company performs no pest control during a month in a county in
32 which it has given notice pursuant to Section 15204 of the Food
33 and Agricultural Code, the registered company shall submit a use
34 report stating this fact to the commissioner. A pesticide use stamp
35 or stamp number is not required on negative use reports.

36 (d) All other proceeds from civil penalties collected by the board
37 shall be deposited in the Civil Penalties Account which is hereby
38 created in the fund. These funds shall be available to the board
39 upon appropriation by the Legislature for the purposes of enforcing
40 this chapter.

1 SEC. 11. Section 8507.1 of the Business and Professions Code
2 is amended to read:

3 8507.1. (a) (1) “Structural pest control applicator” is any
4 individual who is licensed by the board to apply pesticides in
5 Branch 2 or Branch 3 on behalf of a registered company.

6 (2) A structural pest control applicator shall not contract for
7 pest control work or perform pest control work in his or her own
8 behalf.

9 (b) As used in this chapter, “applicator” refers to “structural
10 pest control applicator.”

11 SEC. 12. Section 8514 of the Business and Professions Code
12 is amended to read:

13 8514. (a) A Branch 2 or 3 registered company shall not
14 commence work on a contract, or sign, issue, or deliver any
15 documents expressing an opinion or statement relating to the
16 control of household pests, or wood destroying pests or organisms
17 until the registered company has completed an inspection.

18 (b) Notwithstanding any provision of this chapter, after an
19 inspection has been made, a registered company which holds a
20 branch registration for the control of household pests, or wood
21 destroying pests or organisms, but whose branch registration
22 restricts the method of eradication or control permitted, may
23 recommend and enter into a contract for the eradication or control
24 of pests within the scope of its branch registration, provided that
25 it subcontracts, in writing, the actual performance of the work to
26 a registered company which holds a branch registration authorizing
27 the particular method to be used.

28 (c) A registered company may subcontract, in writing, any pest
29 control work for which it is registered in any branch or branches
30 to a registered company holding a valid branch registration to do
31 that work.

32 (d) Nothing in this chapter shall be construed to prohibit a
33 registered company or the consumer from subcontracting with a
34 licensed contractor to do any work authorized under Section 8556.

35 (e) A registered company shall not subcontract structural
36 fumigation work, as permitted in this section, without the written
37 consent of the consumer. The consumer shall be informed in
38 advance, in writing, of any proposed work which the registered
39 company intends to subcontract and of the consumer’s right to
40 select another person or entity of the consumer’s choosing to

1 perform the work. The consumer may authorize the subcontracting
2 of the work as proposed or may contract directly with another
3 registered company licensed to perform the work. Nothing in this
4 paragraph shall be construed to eliminate any otherwise applicable
5 licensure requirements, nor permit a licensed contractor to perform
6 any work beyond that authorized by Section 8556.

7 (f) Nothing contained in this section shall permit or authorize
8 a registered company to perform, attempt to perform, advertise or
9 hold out to the public or to any person that it is authorized,
10 qualified, or registered to perform, pest control work in a branch,
11 or by a method, for which it is not registered, except that a Branch
12 2 or Branch 3 registered company may advertise fumigation or
13 any all encompassing treatment described in paragraph (8) of
14 subdivision (a) of Section 1991 of Title 16 of the California Code
15 of Regulations if the company complies with the requirements of
16 this section.

17 (g) Subcontracting of work, as permitted in this section, shall
18 not relieve the prime contractor or the subcontractor from
19 responsibility for, or from disciplinary action because of, an act
20 or omission on its part, which would otherwise be a ground for
21 disciplinary action. However, the registered company making the
22 initial proposal including proposed work that the registered
23 company intends to subcontract shall not be subject to disciplinary
24 action or otherwise responsible for an act or omission in the
25 performance of the work that the consumer directly contracts with
26 another registered company, person, or entity to perform, as
27 permitted by this section. All home solicitation contracts shall
28 comply with Chapter 2 (commencing with Section 1688) of Title
29 5 of Part 2 of Division 3 of the Civil Code.

30 SEC. 13. Section 8518 of the Business and Professions Code
31 is amended to read:

32 8518. (a) When a registered company completes work under
33 a contract, it shall prepare, on a form prescribed by the board, a
34 notice of work completed and not completed, and shall furnish
35 that notice to the owner of the property or the owner's agent within
36 10 business days after completing the work. The notice shall
37 include a statement of the cost of the completed work and estimated
38 cost of work not completed.

39 (b) The address of each property inspected or upon which work
40 was completed shall be reported on a form prescribed by the board

1 and shall be filed with the board no later than 10 business days
2 after completed work.

3 (c) A filing fee shall be assessed pursuant to Section 8674 for
4 every property upon which work is completed.

5 (d) Failure of a registered company to report and file with the
6 board the address of any property upon which work was completed
7 pursuant to subdivision (b) of Section 8516 or Section 8518 is
8 grounds for disciplinary action and shall subject the registered
9 company to a fine of not more than two thousand five hundred
10 dollars (\$2,500).

11 (e) The registered company shall retain for three years all
12 original notices of work completed, work not completed, and
13 activity forms.

14 (f) Notices of work completed and not completed shall be made
15 available for inspection and reproduction to the executive officer
16 of the board or his or her duly authorized representative during
17 business hours. Original notices of work completed or not
18 completed or copies thereof shall be submitted to the board upon
19 request within two business days.

20 SEC. 14. Section 8520 of the Business and Professions Code
21 is amended to read:

22 8520. (a) There is in the Department of Consumer Affairs a
23 Structural Pest Control Board, which consists of seven members.

24 (b) Subject to the jurisdiction conferred upon the director by
25 Division 1 (commencing with Section 100), the board is vested
26 with the power to and shall administer the provisions of this
27 chapter.

28 (c) It is the intent of the Legislature that consumer protection
29 is the primary mission of the board.

30 (d) This section shall remain in effect only until January 1, 2019,
31 and as of that date is repealed, unless a later enacted statute, that
32 is enacted before January 1, 2019, deletes or extends that date.
33 Notwithstanding any other law, the repeal of this section renders
34 the board subject to review by the appropriate policy committees
35 of the Legislature.

36 SEC. 15. Section 8528 of the Business and Professions Code
37 is amended to read:

38 8528. (a) With the approval of the director, the board shall
39 appoint a registrar, fix his or her compensation, and prescribe his
40 or her duties.

1 (b) The registrar is the executive officer and secretary of the
2 board.

3 (c) This section shall remain in effect only until January 1, 2019,
4 and as of that date is repealed, unless a later enacted statute, that
5 is enacted before January 1, 2019, deletes or extends that date.

6 SEC. 16. Section 8551.5 of the Business and Professions Code
7 is amended to read:

8 8551.5. Except as provided in this chapter, an unlicensed
9 individual in the employ of a registered company shall not apply
10 any pesticides included in Branch 2 or Branch 3. However, an
11 individual may, for 90 days from the date of employment, apply
12 pesticides for the purposes of training under the direct supervision
13 of a licensed field representative or operator employed by the
14 company. This direct supervision means in the presence of the
15 licensed field representative or operator at all times. The 90-day
16 time period may not be extended.

17 SEC. 17. Section 8560 of the Business and Professions Code
18 is amended to read:

19 8560. (a) Licenses issued to operators, field representatives,
20 or applicators shall be limited to the branch or branches of pest
21 control for which the applicant has qualified by application and
22 examination.

23 (b) For the purpose of delimiting the type and character of work
24 authorized by the various branch licenses, the practice of pest
25 control is classified into the following branches:

26 (1) Branch 1. Fumigation. The practice relating to the control
27 of household and wood-destroying pests or organisms by
28 fumigation with poisonous or lethal gases.

29 (2) Branch 2. General pest. The practice relating to the control
30 of household pests, excluding fumigation with poisonous or lethal
31 gases.

32 (3) Branch 3. Termite. The practice relating to the control of
33 wood-destroying pests or organisms by the use of insecticides, or
34 structural repairs and corrections, excluding fumigation with
35 poisonous or lethal gases.

36 (c) The board may issue a license for a combination of two or
37 more branches for which an applicant qualifies under the provisions
38 of this chapter, and the combination license shall be considered
39 one license.

(d) Unless otherwise authorized by the board, all examinations shall be supplied by the board. All examinations shall be kept for a period of one year, upon the expiration of which these records may be destroyed on order of the board. Each applicant for license as an operator or a field representative shall be designated by a number instead of by name, and the identity thereof shall not be disclosed until the examinations are graded. A person shall not be admitted to the examination room except members of the board, the examining personnel, and the applicants.

(e) The board shall make rules and regulations for the purpose of securing fair, impartial, and proper examinations.

(f) Licensees may be licensed in other branches upon complying with the requirements for qualification and by examination in those other branches. A failure of the licensee to pass examination in the other branch or branches shall not have any effect on existing licenses.

(g) The examination shall be in each of the subjects specified in the branch or branches relating to the respective applications. A license according to the applications shall be granted to any applicant who shall make a general average of not less than 70 percent on each of the subjects of the branch or branches.

SEC. 18. Section 8562 of the Business and Professions Code is amended to read:

8562. (a) To obtain an original operator's license, an applicant shall submit to the registrar an application containing the statement that the applicant desires the issuance of an operator's license under the terms of this chapter.

(b) The application shall be made on forms prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board, and shall contain the following:

(1) The name of the applicant.

(2) Proof satisfactory to the board that the applicant has had actual experience for a period of not less than the time specified opposite the branches of pest control listed below in the employ of a registered company in the State of California in the particular branch or branches of pest control for which the applicant desires to be licensed, or the equivalent of that experience:

Branch 1.....	2 years
Branch 2.....	2 years

Branch 3..... 4 years

(c) For the purpose of this subdivision one year shall equal 1,600 hours of actual experience in the field.

(d) A designation of the branch or branches for which the application is made.

(e) The fees prescribed by this chapter.

(f) No operator's license shall be issued to an individual under 18 years of age.

(g) Effective January 1, 1993, an operator's license shall not be issued to an individual unless that individual has been licensed as a field representative in the branch in which the individual has applied for an operator's license for a period of at least one year, in the case of Branches 1 and 2, or for a period of at least two years for Branch 3, or has demonstrated to the satisfaction of the board that he or she has the equivalent of that training and experience.

SEC. 19. Section 8564 of the Business and Professions Code is amended to read:

8564. (a) To obtain an original field representative's license, an applicant shall submit to the registrar an application containing a statement that the applicant desires the issuance of a field representative's license under the terms of this chapter.

(b) The application shall be made on a form prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board, and shall contain the following:

(1) The length of time during which the applicant has engaged in any work relating to pest control.

(2) The name and place of business of the person who last employed him or her.

(3) The name of the person by whom the applicant is employed.

(4) The name of the registered company by which the applicant is to be employed.

(5) The fees prescribed by this chapter.

(c) The board shall not accept any application for a field representative's license in Branch 1 unless the applicant submits proof satisfactory to the board that he or she has had six months' training and experience in the practice of fumigating with poisonous or lethal gases under the immediate supervision of an individual licensed to practice fumigating, or the equivalent of that training and experience.

(d) The board shall not accept any application for a field representative's license in Branch 2 unless the applicant submits proof satisfactory to the board that he or she has had training and experience in the practice of pesticide application, Branch 2 pest identification and biology, pesticide application equipment, and pesticide hazards and safety practice under the immediate supervision of an operator or field representative licensed in Branch 2, or the equivalent of that training and experience.

(e) The board shall not accept any application for a field representative's license in Branch 3 unless the applicant submits proof satisfactory to the board that he or she has had training and experience in the practice of pesticide application, Branch 3 pest identification and biology, pesticide application equipment, pesticide hazards and safety practices, structural repairs, and structural inspection procedures and report writing under the immediate supervision of an operator or field representative licensed in Branch 3, or the equivalent of that training and experience.

SEC. 20. Section 8564.6 of the Business and Professions Code is amended to read:

8564.6. (a) To obtain an original applicator's license, an applicant shall submit to the registrar an application containing a statement that the applicant requests the issuance of an applicator's license under the terms of this chapter.

(b) The application shall be made on a form prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board and shall contain the following:

(1) The name of the registered company by which the applicant is to be employed.

(2) The fee prescribed by this chapter.

SEC. 21. Section 8565 of the Business and Professions Code is amended to read:

8565. The board shall ascertain by examination that an applicant for a license as operator is qualified in the use and understanding of all of the following:

(a) The English language, including reading and writing.

(b) The building and safety laws of the state and any of its political subdivisions, if the branch or branches of pest control for which he or she is applying, require that knowledge.

(c) The labor laws of the state.

1 (d) The provisions of this chapter.

2 (e) Pesticides used in pest control, if the branch license or
3 licenses for which he or she is applying, require that knowledge.

4 (f) The theory and practice of the branch or branches of pest
5 control in which the applicant desires to be licensed.

6 (g) Other state laws, safety or health measures, or practices that
7 are reasonably within the scope of structural pest control in the
8 various branches, including an applicant's knowledge of the
9 requirements regarding health effects and restrictions on
10 applications, as set forth in Section 8538.

11 SEC. 22. Section 8565.6 of the Business and Professions Code
12 is repealed.

13 SEC. 23. Section 8566 of the Business and Professions Code
14 is amended to read:

15 8566. The board shall ascertain by examination that an
16 applicant for a license as field representative is qualified in the use
17 and understanding of the following:

18 (a) The safety laws of the state, if the branch or branches of pest
19 control for which he or she is applying, require that knowledge.

20 (b) The provisions of this chapter.

21 (c) Pesticides used in pest control, if the branch or branches of
22 pest control for which he or she is applying, require that
23 knowledge.

24 (d) The theory and practice of pest control in the branch or
25 branches thereof for which the applicant desires to be licensed.

26 (e) Other state laws, safety or health measures, or practices as
27 are reasonably within the scope of structural pest control in the
28 various branches.

29 SEC. 24. Section 8567 of the Business and Professions Code
30 is amended to read:

31 8567. Should a field representative or applicator change his or
32 her employment, or should an operator enter the employ of a
33 registered company, or being already employed by a registered
34 company change his or her employment, or being employed by a
35 registered company leave that employment and enter the pest
36 control business on his or her own behalf, he or she shall notify
37 the registrar on a form prescribed by the board and issued by the
38 registrar in accordance with rules and regulations adopted by the
39 board. The registrar shall register the change in his or her records.

1 SEC. 25. Section 8590 of the Business and Professions Code
2 is amended to read:

3 8590. (a) Except as otherwise provided herein, an operator's,
4 field representative's, and applicator's licenses shall expire at 12
5 midnight on June 30 of the third year from the date of issue.

6 (b) An individual licensed in more than one category may
7 request that each license expire on the same date. The date
8 requested shall be the date of the earliest expiration.

9 (c) An operator, field representative, and applicator shall pay a
10 fee for the renewal of his or her license.

11 (d) The board shall on or before the first day of June of each
12 year mail to each operator, field representative, and applicator
13 whose license will expire in that year, addressed to him or her at
14 his or her last known address, a notice that his or her renewal fee
15 is due and payable and that, if not paid by June 30, a penalty will
16 be added thereto.

17 (e) In no case shall the penalty be waived.

18 (f) Upon the receipt of the fee the board shall cause the renewal
19 certificate to be issued.

20 SEC. 26. Section 8590.1 of the Business and Professions Code
21 is repealed.

22 SEC. 27. Section 8593.1 of the Business and Professions Code
23 is amended to read:

24 8593.1. The board shall require as a condition to the renewal
25 of each applicator's license that the holder thereof submit proof
26 satisfactory to the board that he or she has completed courses of
27 continuing education in pesticide application and use approved by
28 the board or equivalent activity approved by the board. In lieu of
29 submitting that proof, the licenseholder, if he or she so desires,
30 may successfully apply for and pass an appropriate applicator's
31 examination for renewal of a license given by the board.

32 SEC. 28. Section 8612 of the Business and Professions Code
33 is amended to read:

34 8612. (a) The licenses of qualifying managers and company
35 registrations shall be prominently displayed in the registered
36 company's office, and no registration issued hereunder shall
37 authorize the company to do business except from the location for
38 which the registration was issued. Each registered company having
39 a branch office or more than one branch office shall be required

1 to display its branch office registration prominently in each branch
2 office it maintains.

3 (b) When a registered company opens a branch office it shall
4 notify the registrar on a form prescribed by the board and issued
5 by the registrar in accordance with rules and regulations adopted
6 by the board. The notification shall include the name of the
7 individual designated as the branch supervisor and shall be
8 submitted with the fee for a branch office prescribed by this
9 chapter.

10 SEC. 29. Section 8613 of the Business and Professions Code
11 is amended to read:

12 8613. A registered company which changes the location of its
13 principal office or any branch office or which changes its qualifying
14 manager, branch supervisor, officers, or its bond or insurance shall
15 notify the registrar on a form prescribed by the board of that change
16 within 30 days thereafter. A fee for filing those changes shall be
17 charged in accordance with Section 8674.

18 SEC. 30. Section 8617 of the Business and Professions Code
19 is amended to read:

20 8617. (a) The board or county agricultural commissioners,
21 when acting pursuant to Section 8616.4, may suspend the right of
22 a structural pest control licensee or registered company to work
23 in a county for up to three working days or, for a licensee,
24 registered company, or an unlicensed individual acting as a
25 licensee, may levy an administrative fine up to one thousand dollars
26 (\$1,000) or direct the licensee to attend and pass a board-approved
27 course of instruction at a cost not to exceed the administrative fine,
28 or both, for each violation of this chapter or Chapter 14.5
29 (commencing with Section 8698), or any regulations adopted
30 pursuant to these chapters, or Chapter 2 (commencing with Section
31 12751), Chapter 3 (commencing with Section 14001), Chapter 3.5
32 (commencing with Section 14101), or Chapter 7 (commencing
33 with Section 15201) of Division 7 of the Food and Agricultural
34 Code, or any regulations adopted pursuant to those chapters,
35 relating to pesticides. However, any violation determined by the
36 board or the commissioner to be a serious violation as defined in
37 Section 1922 of Title 16 of the California Code of Regulations
38 shall be subject to a fine of not more than five thousand dollars
39 (\$5,000) for each violation. Fines collected shall be paid to the
40 Education and Enforcement Account in the Structural Pest Control

1 Education and Enforcement Fund. Suspension may include all or
2 part of the registered company's business within the county based
3 on the nature of the violation, but shall, whenever possible, be
4 restricted to that portion of a registered company's business in a
5 county that was in violation.

6 (b) A licensee who passes a course pursuant to this section shall
7 not be awarded continuing education credit for that course.

8 (c) Before a suspension action is taken, a fine levied, or a
9 licensee is required to attend and pass a board-approved course of
10 instruction, the person charged with the violation shall be provided
11 a written notice of the proposed action, including the nature of the
12 violation, the amount of the proposed fine or suspension, or the
13 requirement to attend and pass a board-approved course of
14 instruction. The notice of proposed action shall inform the person
15 charged with the violation that if he or she desires a hearing before
16 the commissioner issuing the proposed action to contest the finding
17 of a violation, that hearing shall be requested by written notice to
18 the commissioner within 20 days of the date of receipt of the
19 written notice of proposed action.

20 (d) A notice of the proposed action that is sent by certified mail
21 to the last known address of the person charged shall be considered
22 received even if delivery is refused or the notice is not accepted
23 at that address.

24 (e) If a hearing is requested, notice of the time and place of the
25 hearing shall be given at least 10 days before the date set for the
26 hearing. At the hearing, the person shall be given an opportunity
27 to review the commissioner's evidence and a right to present
28 evidence on his or her own behalf. If a hearing is not requested
29 within the prescribed time, the commissioner may take the action
30 proposed without a hearing.

31 (f) If the person upon whom the commissioner imposed a fine
32 or suspension or required attendance at a board-approved course
33 of instruction requested and appeared at a hearing before the
34 commissioner, the person may appeal the commissioner's decision
35 to the Disciplinary Review Committee and shall be subject to the
36 procedures in Section 8662.

37 (g) If a suspension or fine is ordered, it may not take effect until
38 20 days after the date of the commissioner's decision if no appeal
39 is filed. If an appeal pursuant to Section 8662 is filed, the

1 commissioner's order shall be stayed until 30 days after the
2 Disciplinary Review Committee has ruled on the appeal.

3 (h) Failure of a licensee or registered company to pay a fine
4 within 30 days of the date of assessment or to comply with the
5 order of suspension, unless the citation is being appealed, may
6 result in disciplinary action being taken by the board.

7 (i) If a citation containing a fine is issued to a licensee and it is
8 not contested or the time to appeal the citation has expired and the
9 fine is not paid, the full amount of the assessed fine shall be added
10 to the fee for renewal of that license. A license shall not be renewed
11 without payment of the renewal fee and fine.

12 (j) If a citation containing a fine is issued to a registered
13 company and it is not contested or the time to appeal the citation
14 has expired and the fine is not paid, the board shall not sell to the
15 registered company any pesticide use stamps until the assessed
16 fine has been paid.

17 (k) If a citation containing the requirement that a licensee attend
18 and pass a board-approved course of instruction is not contested
19 or the time to appeal the citation has expired and the licensee has
20 not attended and passed the required board-approved course of
21 instruction, the licensee's license shall not be renewed without
22 proof of attendance and passage of the required board-approved
23 course of instruction.

24 (l) Once final action pursuant to this section is taken, no other
25 administrative or civil action may be taken by any state
26 governmental agency for the same violation. However, action
27 taken pursuant to this section may be used by the board as evidence
28 of prior discipline, and multiple local actions may be the basis for
29 statewide disciplinary action by the board pursuant to Section
30 8620. A certified copy of the order of suspension or fine issued
31 pursuant to this section or Section 8662 shall constitute conclusive
32 evidence of the occurrence of the violation.

33 (m) If the board is the party issuing the notice of proposed action
34 to suspend or impose a fine pursuant to subdivision (a),
35 "commissioner" as used in subdivisions (c), (f), and (g) includes
36 the board's registrar.

37 (n) An action brought pursuant to this section shall be
38 commenced by the commissioner within two years of the
39 occurrence of the violation. If a commissioner submits a completed
40 investigation to the board for action by the registrar or the Attorney

1 General, the action shall be commenced within one year of that
2 submission.

3 SEC. 31. Section 8622 of the Business and Professions Code
4 is amended to read:

5 8622. (a) When a complaint is accepted for investigation of a
6 registered company, the board, through an authorized
7 representative, may inspect any or all properties on which a report
8 has been issued pursuant to Section 8516 or a notice of completion
9 has been issued pursuant to Section 8518 by the registered company
10 to determine compliance with the provisions of this chapter and
11 the rules and regulations issued thereunder. If the board determines
12 the property or properties are not in compliance, a notice shall be
13 sent to the registered company so stating. The registered company
14 shall have 30 days from the receipt of the notice to bring the
15 property into compliance, unless an extension is authorized by the
16 board, and it shall submit a new original report or completion
17 notice or both and an inspection fee of not more than one hundred
18 twenty-five dollars (\$125) for each property inspected. If a
19 subsequent reinspection is necessary, pursuant to the board's
20 review of the new original report or notice or both, a commensurate
21 reinspection fee shall also be charged. If the board's authorized
22 representative makes no determination or determines the property
23 is in compliance, no inspection fee shall be charged.

24 (b) The notice sent to the registered company shall inform the
25 registered company that if it desires a hearing to contest the finding
26 of noncompliance, the hearing shall be requested by written notice
27 to the board within 20 days of receipt of the notice of
28 noncompliance from the board. If a hearing is not requested
29 pursuant to this section, payment of any assessment shall not
30 constitute an admission of any noncompliance charged.

31 SEC. 32. Section 8643 of the Business and Professions Code
32 is amended to read:

33 8643. The negligent handling or use of any pesticide is a ground
34 for disciplinary action.

35 SEC. 33. Section 8647 of the Business and Professions Code
36 is amended to read:

37 8647. Failure to comply in the sale or use of pesticides with
38 the provisions of Chapter 2 (commencing with Section 12751) of
39 Division 7 of the Food and Agricultural Code is a ground for
40 disciplinary action.

1 SEC. 34. Section 8651 of the Business and Professions Code
2 is amended to read:

3 8651. The performing or soliciting of structural pest control
4 work, the inspecting for structural or household pests, or the
5 applying of any pesticide for the purpose of eliminating,
6 exterminating, controlling, or preventing structural or household
7 pests in branches of pest control other than those for which the
8 operator, field representative, or applicator is licensed or the
9 company is registered is a ground for disciplinary action.

10 SEC. 35. Section 8660 of the Business and Professions Code
11 is amended to read:

12 8660. A disciplinary review committee consisting of three
13 members shall be established for the purposes of reviewing appeals
14 of orders issued pursuant to Section 8617. The committee shall be
15 made up of one member representing the Director of Pesticide
16 Regulation and one member representing the board. The third
17 member shall be a licensed pest control operator actively involved
18 in the business of pest control and shall be selected by agreement
19 of the other members.

20 SEC. 36. Section 8672.1 is added to the Business and
21 Professions Code, to read:

22 8672.1. (a) As used in this chapter, “original applicator’s
23 license” means an applicator’s license issued for an individual who
24 did not have a license on the preceding June 30.

25 (b) For the purposes of this chapter, a renewal of an applicator’s
26 license means an applicator’s license issued to an individual who
27 had an applicator’s license on June 30 of the preceding renewal
28 period.

29 SEC. 37. Section 8673 of the Business and Professions Code
30 is amended to read:

31 8673. License fees shall not be prorated unless an individual
32 licensed as an operator, a field representative, or an applicator
33 requests an earlier expiration date of one of the licenses in
34 accordance with Section 8590. All license and registration fees
35 shall be paid in advance of the issuance of the license or
36 registration, and all examination fees shall be paid in advance of
37 the examination.

38 SEC. 38. Section 8674 of the Business and Professions Code
39 is amended to read:

40 8674. The fees prescribed by this chapter are the following:

- 1 (a) A duplicate license fee of not more than two dollars (\$2).
- 2 (b) A fee for filing a change of name of a licensee of not more
- 3 than two dollars (\$2).
- 4 (c) An operator's examination fee of not more than twenty-five
- 5 dollars (\$25).
- 6 (d) An operator's license fee of not more than one hundred fifty
- 7 dollars (\$150).
- 8 (e) An operator's license renewal fee of not more than one
- 9 hundred fifty dollars (\$150).
- 10 (f) A company registration fee of not more than one hundred
- 11 twenty dollars (\$120).
- 12 (g) A branch office registration fee of not more than sixty dollars
- 13 (\$60).
- 14 (h) A field representative's examination fee of not more than
- 15 fifteen dollars (\$15).
- 16 (i) A field representative's license fee of not more than forty-five
- 17 dollars (\$45).
- 18 (j) A field representative's license renewal fee of not more than
- 19 forty-five dollars (\$45).
- 20 (k) An applicator's examination fee of not more than fifteen
- 21 dollars (\$15).
- 22 (l) An applicator's license fee of not more than fifty dollars
- 23 (\$50).
- 24 (m) An applicator's license renewal fee of not more than fifty
- 25 dollars (\$50).
- 26 (n) An activity form fee, per property address, of not more than
- 27 three dollars (\$3).
- 28 (o) A fee for certifying a copy of an activity form of not more
- 29 than three dollars (\$3).
- 30 (p) A fee for filing a change of a registered company's name,
- 31 principal office address, or branch office address, qualifying
- 32 manager, or the names of a registered company's officers, or bond
- 33 or insurance of not more than twenty-five dollars (\$25) for each
- 34 change.
- 35 (q) A fee for approval of continuing education providers of not
- 36 more than fifty dollars (\$50).
- 37 (r) A pesticide use report filing fee of not more than five dollars
- 38 (\$5) for each pesticide use report or combination of use reports
- 39 representing a registered structural pest control company's total
- 40 county pesticide use for the month.

1 (s) A fee for approval of continuing education courses of not
2 more than twenty-five dollars (\$25).

3 (t) (1) Any person who pays a fee pursuant to subdivision (r)
4 shall, in addition, pay a fee of two dollars (\$2) for each pesticide
5 use stamp or stamp number purchased from the board.
6 Notwithstanding any other law, the fee established pursuant to this
7 subdivision shall be deposited into the Structural Pest Control
8 Research Fund that is hereby continued in existence and
9 continuously appropriated to be used only for structural pest control
10 research.

11 (2) A charge for administrative expenses of the board in an
12 amount not to exceed 5 percent of the amount collected and
13 deposited in the Structural Pest Control Research Fund may be
14 assessed against the fund. The charge shall be limited to expenses
15 directly related to the administration of the fund.

16 (3) The board shall, by regulation, establish a five-member
17 research advisory panel, including, but not limited to,
18 representatives from the Structural Pest Control Board, the
19 structural pest control industry, the Department of Pesticide
20 Regulation, and the University of California. The panel, or other
21 entity designated by the board, shall solicit on behalf of the board
22 all requests for proposals and present to the panel all proposals
23 that meet the criteria established by the panel. The panel shall
24 review the proposals and recommend to the board which proposals
25 to accept. The recommendations shall be accepted upon a
26 two-thirds vote of the board. The board shall direct the panel, or
27 other entity designated by the board, to prepare and issue the
28 research contracts and authorize the transfer of funds from the
29 Structural Pest Control Research Fund to the applicants whose
30 proposals were accepted by the board.

31 (4) A charge for requests for proposals, contracts, and
32 monitoring of contracted research shall not exceed 5 percent of
33 the research funds available each year and shall be paid from the
34 Structural Pest Control Research Fund.

35 *SEC. 38.5. Section 8674 of the Business and Professions Code*
36 *is amended to read:*

37 8674. The fees prescribed by this chapter are the following:

38 (a) A duplicate license fee of not more than two dollars (\$2).

39 (b) A fee for filing a change of name of a licensee of not more
40 than two dollars (\$2).

- 1 (c) An operator's examination fee of not more than ~~twenty-five~~
2 ~~dollars (\$25)~~; *one hundred dollars (\$100)*.
- 3 (d) An operator's license fee of not more than one hundred fifty
4 dollars (\$150).
- 5 (e) An operator's license renewal fee of not more than one
6 hundred fifty dollars (\$150).
- 7 (f) A company registration fee of not more than one hundred
8 twenty dollars (\$120).
- 9 (g) A branch office registration fee of not more than sixty dollars
10 (\$60).
- 11 (h) A field representative's examination fee of not more than
12 ~~fifteen dollars (\$15)~~; *seventy-five dollars (\$75)*.
- 13 (i) A field representative's license fee of not more than forty-five
14 dollars (\$45).
- 15 (j) A field representative's license renewal fee of not more than
16 forty-five dollars (\$45).
- 17 (k) An applicator's examination fee of not more than ~~fifteen~~
18 ~~dollars (\$15)~~; *sixty dollars (\$60)*.
- 19 (l) An applicator's license fee of not more than fifty dollars
20 (\$50).
- 21 (m) An applicator's license renewal fee of not more than fifty
22 dollars (\$50).
- 23 (n) An activity form fee, per property address, of not more than
24 three dollars (\$3).
- 25 (o) A fee for certifying a copy of an activity form of not more
26 than three dollars (\$3).
- 27 (p) A fee for filing a change of a registered company's name,
28 principal office address, or branch office address, qualifying
29 manager, or the names of a registered company's officers, or bond
30 or insurance of not more than twenty-five dollars (\$25) for each
31 change.
- 32 (q) A fee for approval of continuing education providers of not
33 more than fifty dollars (\$50).
- 34 (r) A pesticide use report filing fee of not more than five dollars
35 (\$5) for each pesticide use report or combination of use reports
36 representing a registered structural pest control company's total
37 county pesticide use for the month.
- 38 (s) A fee for approval of continuing education courses of not
39 more than twenty-five dollars (\$25).

1 (t) (1) Any person who pays a fee pursuant to subdivision (r)
2 shall, in addition, pay a fee of two dollars (\$2) for each pesticide
3 use stamp *or stamp number* purchased from the board.
4 Notwithstanding any other ~~provision of law~~, the fee established
5 pursuant to this subdivision shall be deposited ~~with a bank or other~~
6 ~~depository approved by the Department of Finance and designated~~
7 ~~by the Research Advisory Panel or into the Structural Pest Control~~
8 Research Fund that is hereby continued in existence and
9 continuously appropriated to be used only for structural pest control
10 research. ~~If the Research Advisory Panel designates that the fees~~
11 ~~be deposited in an account other than the Structural Pest Control~~
12 ~~Research Fund, any moneys in the fund shall be transferred to the~~
13 ~~designated account.~~

14 (2) ~~Prior to the deposit of any funds, the depository shall enter~~
15 ~~into an agreement with the Department of Consumer Affairs that~~
16 ~~includes, but is not limited to, all of the following requirements:~~

17 (A) ~~The depository shall serve as custodian for the safekeeping~~
18 ~~of the funds.~~

19 (B) ~~Funds deposited in the designated account shall be~~
20 ~~encumbered solely for the exclusive purpose of implementing and~~
21 ~~continuing the program for which they were collected.~~

22 (C) ~~Funds deposited in the designated account shall be subject~~
23 ~~to an audit at least once every two years by an auditor selected by~~
24 ~~the Director of Consumer Affairs. A copy of the audit shall be~~
25 ~~provided to the director within 30 days of completion of the audit.~~

26 (D) ~~The Department of Consumer Affairs shall be reimbursed~~
27 ~~for all expenses it incurs that are reasonably related to~~
28 ~~implementing and continuing the program for which the funds~~
29 ~~were collected in accordance with the agreement.~~

30 (E) ~~A reserve in an amount sufficient to pay for costs arising~~
31 ~~from unanticipated occurrences associated with administration of~~
32 ~~the program shall be maintained in the designated account.~~

33 (3)
34 (2) A charge for administrative expenses of the board in an
35 amount not to exceed 5 percent of the amount collected and
36 deposited in the Structural Pest Control Research Fund may be
37 assessed against the fund. The charge shall be limited to expenses
38 directly related to the administration of the fund.

39 (4)

1 (3) The board shall, by regulation, establish a five-member
2 research advisory panel, including, but not limited to,
3 representatives from each of the following: (A) the Structural Pest
4 Control Board, (B) the structural pest control industry, (C) the
5 Department of Pesticide Regulation, and (D) the University of
6 California. The panel, or other entity designated by the board, shall
7 solicit on behalf of the board all requests for proposals and present
8 to the panel all proposals that meet the criteria established by the
9 panel. The panel shall review the proposals and recommend to the
10 board which proposals to accept. The recommendations shall be
11 accepted upon a two-thirds vote of the board. The board shall direct
12 the panel, or other entity designated by the board, to prepare and
13 issue the research contracts and authorize the transfer of funds
14 from the Structural Pest Control Research Fund to the applicants
15 whose proposals were accepted by the board.

16 (5)

17 (4) A charge for requests for proposals, contracts, and
18 monitoring of contracted research shall not exceed 5 percent of
19 the research funds available each year and shall be paid from the
20 Structural Pest Control Research Fund.

21 *SEC. 39. Section 38.5 of this bill incorporates amendments to*
22 *Section 8674 of the Business and Professions Code proposed by*
23 *both this bill and Assembly Bill 1685. It shall only become*
24 *operative if (1) both bills are enacted and become effective on or*
25 *before January 1, 2015, (2) each bill amends Section 8674 of the*
26 *Business and Professions Code, and (3) this bill is enacted after*
27 *Assembly Bill 1685, in which case Section 38 of this bill shall not*
28 *become operative.*